REMARKS

The Final Office Action mailed June 1, 2009 has been carefully considered. Reconsideration and allowance of the subject application, in light of the following remarks, are respectfully requested.

Claims 1-21 are currently pending, claims 22-24 having been previously cancelled. No claims have been added or cancelled by this Response. No claims have been amended by this Response.

In view of the fact that no changes have been made to the claims by this Response, it is respectfully submitted that this Response is entitled to consideration and entry as a matter of right.

In the Final Office Action, the Examiner has rejected claims 1, 4-5, 7-8, 11-12 and 19-21 under 35 U.S.C. § 103(a) as being unpatentable over Lakkakorpi (U.S. Patent No. 7,489,632) in view of Daoud et al. (U.S. Publication No. 2002/0087694)/Ejzak (U.S. Publication No. 2003/0027595). The Examiner has also rejected claims 6 and 9-10 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Lakkakorpi (U.S. Patent No. 7,489,632)/Daoud et al. (U.S. Publication No. 2002/0087694)/Ejzak (U.S. Publication No. 2003/0027595), further in view of Kundu (U.S. Publication No. 2004/0117794). Additionally, claims 2-3 and 13 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Lakkakorpi (U.S. Patent No. 7,489,632)/Daoud et al. (U.S. Publication No. 2002/0087694)/Ejzak (U.S. Publication No. 2003/0027595), further in view of Swildens et al. (U.S. Patent No. 7,346,676). Furthermore, the Examiner has rejected claims 14-18 under 35 U.S.C. § 103(a) as being unpatentable over Lakkakorpi (U.S. Patent No. 7,489,632) in view of Daoud et al. (U.S. Publication No. 2002/0087694). Applicants respectfully submit that these rejections of the claims cannot be maintained, and should be withdrawn.

At page 3 of the Final Office Action, the Examiner acknowledges:[2]

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[2] At pages 2-3 of the Final Office Action, the Examiner argues that Lakkakorpi discloses using a "Q-value." However, as is well known to those of ordinary skill in the art, a "SIP Q-value" (see claim 1) is a specific Session Initiation Protocol (SIP) parameter that has specific properties/uses according to SIP. See, e.g., pages 35 and 46 (§§8.1.3 and 10.2.1, respectively) of RFC 3261. Nothing in any of the documents relied upon by the Examiner (including Lakkakorpi) discloses use of such SIP Q-value in **any** fashion, much less, in the manner argued by the Examiner at pages 2-3 of the Final Office Action or in the claims. Indeed, the term "Q-value" is nowhere found anywhere in Lakkakorpi, at all! Furthermore, no combination of the documents relied upon by the Examiner with RFC 3261 would disclose or suggest specific features of the claims.

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> Lakkakorpi fails to disclose session initiation protocol and a plurality of SIP
>
> entities, where the Q-value is an integer value based on both (1) a contact
>
> priority and (2) a number of calls or an amount of information being processed
>
> for a call; and where each load broker is a back-to-back user agent.

(Final Office Action, page 3).

However, the Examiner argues that Daoud and Ejzak disclose these features that the Examiner acknowledges to be missing from Lakkakorpi. More specifically, the Examiner argues:
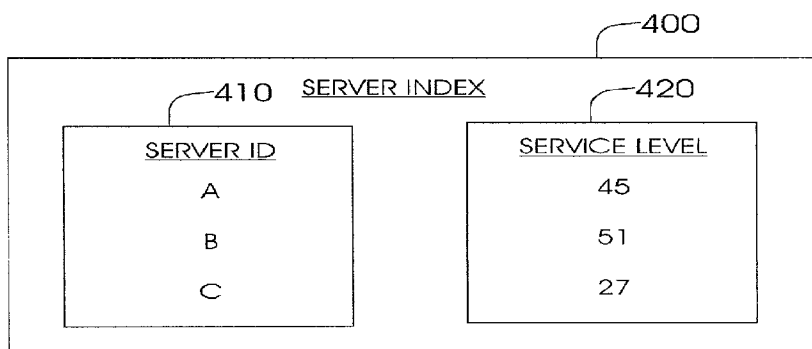
> Daoud discloses where the Q-value is an integer value (Figure 4: item
>
> 420) based on both (1) a contact priority and ([0043], [0047]; Figure 6: item 620)
>
>   (2) a number of calls or an amount of information being processed for a
>
> call. ([0034]; current load)
>
>   Ejzak discloses a session initiation protocol and a plurality of SIP entities
>
> ([0030]) and a back-to-back user agent. ([0116])

(Final Office Action, page 3).

For the convenience of the Examiner, Daoud's Figure 4 is reproduced below:

FIG. 4

(Daoud Figure 4).

Daoud describes "Service Level 420" in Figure 4 illustrated above as:

[0039]   The service level **420** can be any suitable indicator, such as but not limited to a number on a scale of one to ten, a category of service, the time (e.g., weekday or weekend), a user identification (e.g., user1, user2, administrator), a transaction type (e.g., email, video), a combination thereof, etc. Furthermore, the service level can be based on information about the monitored servers obtained by polling the servers, predefined service specifications, etc. Likewise, the servers can be ranked relative to one another, relative to the types of transactions processed, etc.

(Daoud, paragraph 39).

In paragraph 34 of Daoud, specifically relied upon by the Examiner, Daoud discloses:

[0034]   In another embodiment, the requested level of service may be automatically assigned to a transaction **200**. That is, the requested level of service may be assigned by a network device (e.g., a workstation, router, etc.) or an application (e.g., an operating system, the originating application, an applet, etc.). Suitable program code can be included at the network device and/or the application to assign the requested level of service based on a fixed parameter(e.g., a user ID, application ID, passcode, etc.), a dynamic parameter (e.g., the time of day, current load, etc.) or a combination thereof.
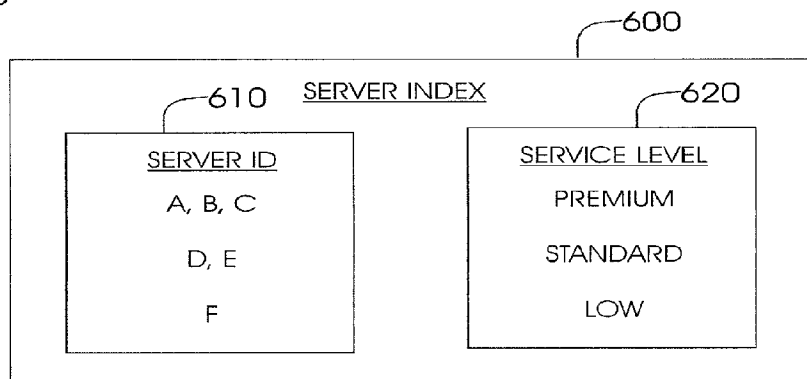
(Daoud, paragraph 34).

Daoud's paragraph 43, also specifically relied upon by the Examiner, discloses:

> **[0043]**   In **FIG. 5**, the server pool **500** includes a premium group **510**, a standard group **520**, and a low priority group **530**. The servers **511**, **512**, and **513** (**A**, **B**, and **C**, respectively) are part of the "premium" group **510**. For example, the premium group **510** can include high-speed, high-capacity servers. In addition, the premium group **510** can include additional servers and backup servers so that there is always an available server in this group. Access to these servers can be reserved for a department with high demand requirements (e.g., the CAD department), for high priority transactions, for customers paying a fee to access these servers, etc. The standard group **520** can include average-speed, average capacity servers. Access to these servers **521**, **522** (**D** and **E**) can be designated for a sales/marketing department that requires only average processing capacity, or can also be available on a fee-basis. The "low priority" group **530** can include older and/or less expensive servers **531** that do not perform at the predetermined standards of the standard group **520** or the premium group **510**. These servers **531** can be used for low-priority email, backup jobs, transactions requested during off-peak hours when timeliness is not as important, etc. These servers can be designated as a group **530**, or simply be unclassified servers in the server pool **500**.

(Daoud, paragraph 43).

Daoud's Figure 6 is reproduced below for the convenience of the Examiner:

FIG. 6

(Daoud's Figure 6).

Daoud describes "service Level 620" in Figure 6 illustrated above as:

[0047]   When the transaction **200** is received at the load balancer **300**, the load balancer **300** reads the requested level of service from the service tag **220**. Based on the server index **600** (**FIG. 6**), the load balancer **300** selects the server (e.g., **512**) from the server group (e.g., **510**) that is best providing the requested level of service (e.g., "premium"). That is, the server index **600** contains the server ID **610** and a corresponding level of service **620**, similar to the server index **400** in **FIG. 4**. However, in server index **600**, the server ID **610** is indicated as a group of servers. That is, Servers A, B, and C, are providing a "premium" level of service, Servers D and E are providing a "standard" level of service, and Server F is providing a low-priority level of service. Thus for example, where the service tag **220** indicates that the requested level of service is "premium", the load balancer **300** directs the transaction **200** to any one of the servers **511, 512, 513** in the premium group **510**. The load balancer can use conventional load balancing algorithms (e.g., next available, fastest available, or any other suitable algorithm) to select a specific server **511, 512, 513** within the premium group **510**.

(Daoud, paragraph 47).

Even assuming, for the sake of argument, that Ejzak discloses "a session initiation protocol and a plurality of SIP entities . . . and a back-to-back user agent" as argued by the Examiner, nothing in any of the documents relied upon by the Examiner discloses or suggests the combination of features of Applicants' claim 1, namely:

A method of communicating load, comprising:

determining a load on a first node;

factoring the load into <u>a session initiation protocol (SIP) Q-value</u> for the first node, <u>where the Q-value is an integer value based on both (1) a contact priority and (2) a number of calls or an amount of information being processed for a call</u>;

transmitting <u>the Q-value</u> to a second node via one or more load brokers where each load broker is a back-to-back user agent; and

determining a domain load factor for a domain that comprises a plurality of SIP entities, the domain load factor indicating domain load for the entire domain, <u>the domain load factor to be shared with other domains and **to be used with the Q-value**</u> to determine call routing. (Independent claim 1).

As stated above, as is well known to those of ordinary skill in the art, a "SIP Q-value" (see claim 1) is a specific Session Initiation Protocol (SIP) parameter that has specific properties/uses according to SIP. See, e.g., pages 35 and 46 (§§8.1.3 and 10.2.1, respectively) of RFC 3261.[3] None of the documents relied upon by the Examiner discloses use of a SIP Q-value in **any** fashion, much less, in the manner argued by the Examiner in the Final Office Action or as recited in the claims. **Indeed, the term "Q-value" is nowhere found anywhere in any of the documents relied upon by the Examiner!**

All of the currently pending independent claims contain the above limitations of claim 1, or similar limitations. Thus, all of the currently pending claims contain the above limitations of claim 1 or other similar limitations, either directly, or by depending from one of the independent claims. 35 USC §112, fourth paragraph.

These differences between these documents used in the above rejections, and the claims, are not merely academic. For example, although the limitations in the claims are not limited to or bound by embodiments disclosed in the Specification, in an embodiment disclosed in the Specification, these features of the claimed invention that are not disclosed or suggested in these documents permit this embodiment to operate in a manner that is different from, and to achieve advantages compared to the technology disclosed in these documents. (See, e.g., Specification, page 10, lines 14-22).

Accordingly, since these advantageous features of the claimed invention are nowhere disclosed or suggested in any of these documents, it is respectfully submitted that none of these documents, taken singly or in any combination, anticipates or renders obvious the claimed invention. Therefore, it is respectfully submitted that the Examiner's rejections of the claims under 35 USC § 103 cannot be maintained, and should be withdrawn.

In the event that the Examiner believes that a telephone interview would advance the prosecution of this application, the Examiner is invited to call the undersigned attorney to initiate an interview.

In the event that any fees are due or payable in connection with this submission or in this application (including any applicable extension of time for response fees) please charge them to

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[3] Additionally, nothing in any of the documents relied upon by the Examiner taken in any combination with RFC3261 would disclose or suggest the specific combination of features of the claims.

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Deposit Account No. 50-4238. Likewise, please credit any overcharges to Deposit Account No.
50-4238.

                                          Respectfully submitted,

                                          Customer Number: 76973

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